



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,025	11/12/2003	Elmer G. Musser JR.	1073.002	6195
22186 7590 08/06/2008 MENDELSON AND ASSOCIATES, P.C. 1500 JOHN F. KENNEDY BLVD., SUITE 405 PHILADELPHIA, PA 19102				
EXAMINER				
RAMAN, USHA				
ART UNIT		PAPER NUMBER		
2623				
MAIL DATE		DELIVERY MODE		
08/06/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/706,025

Applicant(s)

MUSSEY, ELMER G.

Examiner

USHA RAMAN

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-12 and 16-32 is/are rejected.
- 7) ☒ Claim(s) 8 and 13-15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S5108)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Miscellaneous

1. Please note that the examiner of record has changed.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 14th, 2008 has been entered.

Response to Arguments

3. Applicant's arguments with respect to claims 1, 18, 23 and 30 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
5. Claims 1-3, 9, 10, 16-20, 22-25 and 27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zetts (US 6,378,129) in view of Lewin (US PG Pub. 2004/0237120).

Regarding claims 1, 18, 23 and 30, Zetts teaches a method for automatically creating a playlist, comprising:

receiving a reference playlist defining a plurality of attributes for each of one or more program segments (col. 5, lines 8-14), the attributes comprising an on-air time (col. 5, lines 14-22), a start-of message (col. 2, lines 38-43 and col. 5, lines 14-22—"queue with data" specifies when the segment begins relative to the beginning of the program), and a duration for each program segment (col. 5, lines 14-22);

comparing at least one on-air time in the reference playlist to a specified reference time; identifying, based on the comparison, at least one program segment in the reference playlist that is active at the specified reference time; and adjusting, based on the at least one identified active program segment, one or more attributes for one or more program segments in the reference playlist to create a new playlist (col. 11, lines 12-18; col. 12, line 43-col. 13, line 5—the system compares the local time with the scheduled time of a video and determines a current play offset in order to synchronize two playlists).

In an analogous art, Lewin discloses a playlist defining a plurality of attributes for the one or more segments, the attributes comprising, on air time, and duration, wherein when a program is active (i.e. on air) and in the event a program is active, the duration attribute in the playlist is changed to a countdown of the time remaining in the event. See [0071], [0042].

All the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in

their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention. Accordingly it would have been obvious to incorporate the teachings of Lewin, updating attributes of the new playlist on the onset of an "on air"/"on horizon" triggers indicating an updated program lineup, to synchronize the two playlists with updated program line up.

Regarding claim 2, Zetts teaches wherein: the reference playlist corresponds to a playlist currently being executed by a first subsystem that sources an on-air feed (col. 4, lines 34-36—primary server plays out video clips directly to air); and the specified reference time is based on the current time of day (col. 12, line 43-col. 13, line 5—"local time").

Regarding claims 3, 19 and 24, Zetts teaches executing the new playlist on a second subsystem that provides failure protection for the first subsystem (col. 4, lines 34-36—secondary server).

Regarding claims 9, 20 and 25, Zetts teaches selecting the one or more program segments in the reference playlist to adjust, taking into account a queuing delay associated with a source of each selected program segment (col. 12, lines 56-64—network delay and queuing delay).

Regarding claim 10, Zetts teaches wherein at least one active program segment is not selected to be adjusted based on the queuing delay of the source associated with the active program segment (col. 12, lines 56-64).

Regarding claims 16, 22 and 27, Zetts teaches wherein two or more program segments are from different sources (Fig. 2—videos from sources, such as ABC, FORD, McDonald's, etc., are stored in video archive 140 using hard disk storage and/or a tape library).

Regarding claim 17, Zetts teaches wherein at least one of the one or more program segments is sourced by a video server (Fig. 1—100).

Regarding claim 28, Zetts teaches wherein at least one content sourcing subsystem includes: an automation server adapted to execute a playlist (Fig. 1—100); a plurality of content sources (Fig. 2—videos from sources, such as ABC, FORD, McDonald's, etc., are stored in video archive 140 using hard disk storage and/or a tape library); and a content router coupled to the outputs of the content sources (Fig. 1—165), wherein: the automation server is adapted to communicate information derived from the playlist to one or more of the content sources in the plurality of content sources (col. 4, lines 47-50); and the content router is adapted to select an output of one of the plurality of content sources and output a routed output upon which the subsystem stream of content is based (col. 4, lines 54-56).

Regarding claim 29, Zetts teaches a network management station adapted to monitor the status of the subsystems and, in the event of a failure of a subsystem, report this failure to the automated playlist chaser (col. 4, lines 33-45; col. 5, lines 1-7).

Regarding claim 31, Zetts in view of Lewin teaches, wherein the adjusting step comprises adjusting, based on the at least one identified active program

segment, at least one of the on-air time, the start-of message, and the duration attributes for the one or more program segments in the reference playlist to create the new playlist (col. 12, line 43-col. 13, line 5—play offset of the target video is adjusted to create the new playlist in the secondary video server) and Lewin (see [0042]).

Regarding claim 32, Zetts in view of Lewin teaches wherein the adjusting step comprises adjusting the on air time (see [0047]), the start of message (event number/status # indicating an “on air” event), and duration (see [0042]).

6. Claims 4-7, 21 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zetts (cited in prior Office Action), as applied to claims 1, 2, 18 and 23 above, in view of Hinderks (US 2001/0025377; cited in prior Office Action).

Regarding claims 4 and 5, Zetts fails to clearly teach wherein the first subsystem is a multicast subsystem and wherein the multicast subsystem is an internet-based streaming subsystem.

In analogous art, Hinderks teaches wherein a subsystem is a multicast subsystem and wherein the multicast subsystem is an internet-based streaming subsystem (Fig. 34; paragraph 198—server, which is configured to output multicast IP streams, schedules the content playlist so that the content is delivered in a predetermined manner).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zetts by configuring the subsystem as a multicast subsystem and wherein the multicast subsystem is an internet-based

streaming subsystem, as taught by Hinderks, in order to generate IP digital data which is then transmitted from a multicast content source site to a remote Internet point-of-presence (POP) through a dedicated transmission channel substantially separate from the Internet backbone (Hinderks: paragraph 29).

Regarding claims 6, 21 and 26, Zetts teaches wherein the reference playlist corresponds to a playlist currently being executed by a first subsystem that sources a first on-air feed (col. 4, lines 34-36—primary server plays out video clips directly to air) and that the specified reference time is based on the current time of day (col. 12, line 43-col. 13, line 5—“local time”), but fails to clearly teach the first on-air feed that is intended for viewing in at least a first time zone, and the specified reference time is based on the current time of day in a second time zone that is different than the first time zone.

In analogous art, Hinderks teaches a first on-air feed that is intended for viewing in at least a first time zone, and the specified reference time is based on the current time of day in a second time zone that is different than the first time zone (paragraph 221—a server allows delayed playing, “delay play”, of multicast audio/video content thus allowing a single network feed to originate on the east coast, or a “reference time” based on time of day in “second time zone”, and delayed appropriately for each other time zone, e.g. central, mountain and pacific time zones, or “on-air feed that is intended for viewing in a first time zone”).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zetts by incorporating the first on-air feed to

be intended for viewing in at least a first time zone, and the specified reference time is based on the current time of day in a second time zone that is different than the first time zone, as taught by Hinderks, in order to allow viewers in each of these time zones to see the six o'clock network news, or other show, at the correct time in their respective time zones (Hinderks: paragraph 221).

Regarding claim 7, Zetts teaches executing the new playlist on a second subsystem that sources a second on-air feed, but fails to clearly teach that the second on-air feed is intended for viewing in at least the second time zone, wherein the second on-air feed is substantially a time-delayed version of the first on-air feed.

In analogous art, Hinderks teaches an on-air feed is intended for viewing in at least the second time zone, wherein the second on-air feed is substantially a time-delayed version of the first on-air feed (paragraph 221—a server allows delayed playing, "delay play", of multicast audio/video content thus allowing a single network feed to originate on the east coast, "a first on-air feed", and delayed appropriately for each other time zone, "a second on-air feed" including e.g. central, mountain and pacific time zones, or "at least the second time zone").

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zetts by incorporating the on-air feed to be intended for viewing in at least the second time zone, as taught by Hinderks, in order to allow viewers in each of these time zones to see the six o'clock network news, or other show, at the correct time in their respective time zones (Hinderks: paragraph 221).

7. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zetts (cited in prior Office Action), as applied to claim 1 above, in view of Pontenzone et al. (US 2002/0152278; cited in prior Office Action).

Regarding claim 11, Zetts teaches the received reference playlist is selected from a plurality of playlists (Fig. 1—video archive 140), but fails to teach with the assistance of a rule-based playlist validator.

In analogous art, Pontenzone teaches using a playlist validation module to select a playlist (paragraphs 7 and 63—validation module validates playlists by verifying that the contents of the playlist satisfies all requirements for a selected playlist).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zetts by selecting a playlist with the assistance of a rule-based playlist validator, as taught by Pontenzone, in order to assure that the playlist is compliant with all rules concerning a selected playlist (Pontenzone: paragraphs 7 and 63).

Regarding claim 12, Zetts and Pontenzone teach wherein at least one of the playlists in the plurality of playlists is from a playlist archive (Zetts: Fig. 1—140).

Allowable Subject Matter

8. Claims 8, 13, 14, and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 8, Zetts and Hinderks teach executing the reference playlist on a second subsystem that sources an intermediate feed that is substantially synchronous with the first on-air feed that is sourced by the first subsystem; and delaying the intermediate feed using a delay unit to produce a second on-air feed that is intended for viewing in at least the second time zone, such that the difference between the start of a given program segment in the first on-air feed and the start of the given program segment in the second on-air feed is equal to the time of day difference between the first and second time zones, however, the prior art of record fails to teach or reasonably suggest *upon detecting a failure in the delay unit: the delay unit is bypassed such that the intermediate feed becomes the second on-air feed; and the new playlist is loaded into and executed by the second subsystem as recited in the claims.*

Regarding claims 13, 14 and 15, the prior art of record fails to teach or reasonable suggest the combination of claim 1 and initializing a first variable based on the reference time plus a processing time; initializing a second variable to the value of the first variable; determining a current program segment from the reference playlist by comparing the value of the second variable with timeslots for program segments in the reference playlist; determining media type and corresponding queuing delay for the source of the current program segment; updating the value of the second variable to be equal to the value of first variable plus the queuing delay, and checking to see if the updated value of the second variable is within the timeslot for the current program segment, and, if it is not, repeating the steps (c)-(e) until the

updated value of the second variable is within the timeslot for the current program segment as recited in the claims.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to USHA RAMAN whose telephone number is (571)272-7380. The examiner can normally be reached on Mon-Fri: 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 10/706,025

Page 12

Art Unit: 2623

/Usha Raman/